

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS - CRIMINAL TERM - PART: BTC

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

TYQUAN JACKSON,

Defendant.

-----X
Indict. No. 4852-2012 320 Jay Street
2012KN089346 Brooklyn, New York
Plea - SCI 9486-2012 November 14, 2012

B E F O R E:

HONORABLE JO ANN FERDINAND, Justice

A P P E A R A N C E S:

OFFICE OF CHARLES J. HYNES, ESQ.
DISTRICT ATTORNEY, KINGS COUNTY
Attorney for the People
BY: JONATHAN LASKIN, ESQ.
Assistant District Attorney

VERENA POWELL, ESQ.
Attorney for the Defendant
299 Broadway
New York, New York

SUZANNE GRANT
OFFICIAL COURT REPORTER

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1 THE CLERK: This is on the BTC calendar, number
2 31, Tyquan Jackson, 4852 of 2012.

3 Also on the AP-D calendar, number 3,
4 2012KN089346.

5 MS. POWELL: Good afternoon. On behalf of Mr.
6 Jackson, Verena Powell, 299 Broadway New York, New York.

7 THE COURT: Good afternoon.

8 As you know, Mr. Jackson has been a participant
9 since September when he pled guilty to a misdemeanor and
10 agreed to participate in treatment. He was warned that if
11 he failed to comply he would receive a sentence of nine
12 months in jail.

13 About a month later he was rearrested on this new
14 felony drug charge. I agreed to allow Mr. Jackson to be
15 reassessed and I understand from the treatment staff that
16 they believe he would be an appropriate candidate for a
17 residential program.

18 They have, in fact, spoken with Phoenix House who
19 has found Mr. Jackson an appropriate candidate for that
20 program.

21 Are the People willing to make a treatment offer
22 on the new case?

23 MR. LASKIN: Yes. He would need to plead guilty
24 on the new case to criminal sale of a controlled substance
25 in the third degree and then do whatever the treatment

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1 program the treatment staff and court deem necessary.

2 If he completes any recommended program that plea
3 will be vacated along with the plea that he previously
4 entered and both cases would then be dismissed.

5 If he's noncompliant the jail alternative on the
6 new case is a one year definite sentence to run consecutive
7 to the nine month sentence on the earlier case.

8 If he gets rearrested his maximum exposure on the
9 new case is now nine years plus two years of post-release
10 supervision.

11 THE COURT: So if Mr. Jackson is interested in
12 the People's offer in a residential program, I want him to
13 understand that because he will now have not only a
14 misdemeanor but a misdemeanor and a felony, his treatment
15 mandate will be longer and obviously his jail alternative
16 is longer. And if he comes back with yet another arrest
17 there will be no more chances.

18 So, Miss Powell, you've discussed all of this
19 with Mr. Jackson and is he interested?

20 MS. POWELL: Yes, your Honor, I have.

21 THE COURT: I am in receipt of Superior Court
22 Information 9486 of 2012. It charges Tyquan Jackson with a
23 single count of the class D felony criminal sale of a
24 controlled substance in the third degree along with waivers
25 signed by Mr. Jackson, his attorney and the assistant

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1 district attorney waiving his right to a felony hearing, a
2 grand jury indictment and an appeal after sentence.

3 Mr. Jackson, I'd like to ask you some questions.

4 Would the clerk please swear him in.

5 (Whereupon, the Defendant was duly sworn by the
6 clerk of the court.)

7 THE CLERK: State your name in a loud clear
8 voice, please.

9 THE DEFENDANT: Tyquan Jackson.

10 THE CLERK: Thank you.

11 THE COURT: Mr. Jackson, you are charged in the
12 second case with a felony. Because the case charges a
13 felony, you have the right to have this case presented to a
14 grand jury and you have the right to wait for the grand
15 jury to vote an indictment before you are prosecuted for
16 this crime.

17 You've just signed papers waiving those rights.
18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Before signing these papers did you
21 discuss all of this with Miss Powell, your lawyer?

22 THE DEFENDANT: Yes.

23 THE COURT: Please arraign Mr. Jackson on the
24 SCI.

25 THE CLERK: Counsel, have you received a copy of

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1 the Superior Court information?

2 MS. POWELL: I'm getting a copy now. I did
3 review it.

4 THE CLERK: You waive its public reading?

5 MS. POWELL: Yes, we do.

6 THE CLERK: How does your client now plead?

7 MS. POWELL: My client pleads not guilty.

8 THE CLERK: Enter the plea now.

9 MS. POWELL: Okay. At this point in time having
10 had a chance to review the SCI number 9486 of 2012, my
11 client withdraws his previously entered plea of not guilty
12 to the SCI and enters a plea of guilty to criminal sale of
13 a controlled substance in the third degree with the
14 understanding that Mr. Jackson will take part in the
15 Brooklyn Treatment Court program that will be managed by
16 the Phoenix House program.

17 My client also understands that should he
18 complete the program both the SCI as well as the original
19 indictment before the Court, that being 4852 of 2012, will
20 both be dismissed.

21 If my client is noncompliant while a participant
22 in the Phoenix House program he will receive nine months
23 incarceration on the original indictment and consecutive to
24 one year incarceration on the SCI to which he is entering a
25 plea of guilty to today.

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1 Should my client be rearrested after being
2 released to an outpatient component of the Phoenix House
3 program, my client is looking at a period of incarceration
4 up to nine years plus a period of post-release supervision
5 of at least two years.

6 THE COURT: So, Mr. Jackson, your lawyer has just
7 said you are prepared to plead guilty to the felony
8 criminal sale of a controlled substance in the third degree
9 in this case in which you were arrested in October of this
10 year, is that what you wish to do?

11 THE DEFENDANT: Yes.

12 THE COURT: As you know, the treatment staff have
13 advised us that you, yourself, continue to have a substance
14 abuse problem and they are recommending that you enter a
15 residential program to get help for this problem. Are you
16 prepared to follow this treatment plan?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, you have a right to a trial in
19 this case before a judge or a jury. At a trial the
20 witnesses against you would testify, your lawyer would
21 question the witnesses, you could testify and call
22 witnesses in your own behalf. Those are the rights that
23 you give up by pleading guilty. Is all of that clear?

24 THE DEFENDANT: Yes.

25 THE COURT: The charge is that on October the

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1 26th of this year, at 9:30 in the morning, on East 23rd
2 Street, here, in Brooklyn, you sold drugs. Is that charge
3 true?

4 THE DEFENDANT: Yes.

5 THE COURT: And what is the drug that you sold?

6 THE DEFENDANT: Crack cocaine.

7 THE COURT: Now, based on your plea of guilty in
8 this case, Mr. Jackson, you could be sentenced to as much
9 as nine years in state prison followed by two years of
10 post-release supervision.

11 I have agreed to delay imposing any sentence to
12 give you an opportunity to participate in a residential
13 drug treatment program.

14 If you cooperate with this plan, if you
15 successfully complete between a year-and-a-half and up to
16 two years of treatment, the plea you just entered will be
17 vacated and these charges will be dismissed.

18 However, if you fail to enter or complete
19 treatment you will have a felony conviction for this case
20 and you will be sentenced in this case to one year in jail.

21 In addition to that one year, you will also be
22 sentenced to an additional nine months for the earlier
23 case. You understand all that?

24 THE DEFENDANT: Yes.

25 THE COURT: If you do complete the mandate both

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1 this case and the earlier case will be dismissed. Meaning
2 you will have no criminal record as a result of either
3 arrest.

4 Now, while you're in treatment I expect you to be
5 law abiding. If you get arrested again there is no promise
6 that you will be allowed to remain in treatment. And if
7 you come back here with yet another felony drug charge,
8 don't expect to be allowed to continue in treatment.

9 If you get arrested again you would be facing the
10 possibility of receiving that maximum nine years prison
11 term.

12 Do you understand everything I've said today?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anyone made any promise different
15 from what I've said?

16 THE DEFENDANT: No.

17 THE COURT: Has anyone made any threats to force
18 you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Before entering this plea you signed
21 several pieces of paper including a contract with the court
22 and a waiver of your right to appeal.

23 Before signing these papers, before pleading
24 guilty, did you discuss all of this with Miss Powell, your
25 lawyer?

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1 THE DEFENDANT: Yes.

2 THE COURT: Are you ready to enter a residential
3 program?

4 THE DEFENDANT: Yes.

5 THE COURT: You ready to be drug free?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you have any questions you'd like
8 to ask me?

9 THE DEFENDANT: No.

10 THE COURT: Is the plea acceptable to the People?

11 MS. LASKIN: Yes, it is.

12 THE CLERK: Mr. Jackson, is Miss Powell, who
13 stands next to you, your attorney?

14 THE DEFENDANT: Yes.

15 THE CLERK: Do you now wish to withdraw your
16 previously entered plea of not guilty on Docket
17 2012KN089346 and now plead guilty to the crime of criminal
18 sale of a controlled substance in the fifth degree, a class
19 D felony, in full satisfaction of this Superior Court
20 Information No. 9486 of 2012, is that what you wish to do?

21 THE DEFENDANT: Yes.

22 THE CLERK: Thank you.

23 THE COURT: So why do you think we agreed to give
24 you another chance in treatment, Mr. Jackson?

25 THE DEFENDANT: Maybe I have hope and faith.

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1 THE COURT: Okay. And do you think you deserve
2 another chance?

3 THE DEFENDANT: Yeah.

4 THE COURT: Why?

5 THE DEFENDANT: Because nobody's perfect.

6 THE COURT: Okay. Here's what I see.
7 You came here and you weren't really sure you
8 wanted to do this. The first time we offered it you turned
9 it down, right.

10 Then as the case went on you started to see maybe
11 this was the best deal you were going to get and that's why
12 you did it. But you really didn't do it with a great
13 commitment to change.

14 And in the first month you didn't really change
15 too much. You were still hanging out with the same people
16 and probably still getting high.

17 So my view is, if you make a decision that you're
18 ready to change both the people you hang out with, the
19 activities you're involved in, if you decide to start
20 taking your life seriously, getting an education, getting
21 better job training so that you can do something positive
22 in your life, there's no reason why you can't be
23 successful. So I'm willing to give you an opportunity to
24 show us that you decided that you're going to take it
25 seriously this time. And I'm hoping that the week or so

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1 you've spent in jail is enough to convince you that you
2 don't want to be in jail. Because whether you go back
3 again, what do you think it depends on?

4 THE DEFENDANT: Me.

5 THE COURT: Exactly.

6 How do you have feel about going to Phoenix
7 House?

8 THE DEFENDANT: Whatever works is fine.

9 THE COURT: What?

10 THE DEFENDANT: Whatever works is fine with me.

11 THE COURT: Are you ready to go there?

12 THE DEFENDANT: Yeah.

13 THE COURT: Are they ready to take him today?

14 MS. FOURNIER: Yes, Judge. Mr. Ron is present in
15 the courtroom from Phoenix House to be escorted to the
16 program.

17 THE COURT: Are you ready it go there today?

18 THE DEFENDANT: Yeah, I am.

19 Can I ask a question?

20 THE COURT: Sure.

21 THE DEFENDANT: Can I get until tomorrow?

22 THE COURT: You want to go back to Rikers?

23 THE DEFENDANT: No, I want to go home and shower
24 and get --

25 THE COURT: Can you go home, that's what you want

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1 to know?

2 THE DEFENDANT: Yeah.

3 THE COURT: Okay. What do you think the answer
4 is?

5 THE DEFENDANT: I'm not sure.

6 THE COURT: You're afraid to say it. You think
7 if you say it will -- you're not going home. I'm happy
8 giving you a chance to go to the program. They have
9 showers at Phoenix House.

10 I'm willing to allow you to leave here and go to
11 the program. They will make arrangements with you to get
12 your clothing. If your family can bring it to them, if not
13 they will make arrangements for somebody to take you home
14 to pick up your belongings. Not today. Today you need to
15 go there. Once you are there you need to stay there and
16 follow their rules. You ready to do all that?

17 THE DEFENDANT: Yes.

18 THE COURT: So why do you think I'm not letting
19 you go home?

20 THE DEFENDANT: I'm not sure.

21 THE COURT: Well, the first thing is you haven't
22 proved to me that I can trust you yet. Have you?

23 So before you ask for stuff, why don't you spend
24 a little time proving that you're trustworthy.

25 The second thing is, I'm worried that you're

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1 going to go home and you are going to find marijuana hidden
2 somewhere in your house and make a stupid decision.

3 The third thing is, I'm worried you're going to
4 go home and you're going to meet some friends who are going
5 to convince you that it's more fun to stay home and hang
6 out than to start working on your future.

7 So my goal is to get you to the program and start
8 you working towards a better future. So as long as you are
9 willing to go there today I'm prepared to release you from
10 jail.

11 Are there any holds?

12 COURT OFFICER: No holds, Judge.

13 THE COURT: He's released on his own recognizance
14 with the understanding he's entering Phoenix House.

15 They're asking for 12/18, Miss Powell, is that
16 all right with you?

17 MS. POWELL: May I have one moment, your Honor?

18 THE CLERK: He has an open matter in AP-4 as
19 well.

20 THE COURT: Right, he has another open matter.
21 He's been very busy.

22 THE CLERK: It's on January 4th in AP-4.

23 THE COURT: Okay. We will have to figure out
24 what we're going to do with that.

25 MS. POWELL: Your Honor, the 18th is a busy day

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1 for me.

2 THE COURT: Let me just see if we have other --
3 how is the 13th?

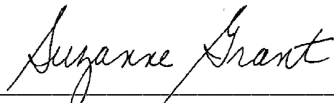
4 MS. POWELL: Very good, your Honor.

5 THE COURT: So I will see you back here on
6 December 13th so we can make sure you're off to a good
7 start.

8 (Adjourned to December 13, 2012.)

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11 It is hereby certified that the
12 foregoing is a true and accurate transcript
13 of the proceedings.

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SUZANNE GRANT
16 OFFICIAL COURT REPORTER
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